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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,055	11/21/2001	Jason F. Hunzinger	09752-106001	1470

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EXAMINER

KERVEROS, JAMES C

ART UNIT PAPER NUMBER

2133

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,055

Applicant(s)

HUNZINGER, JASON F.

Examiner

James C Kerveros

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☒ Claim(s) 20-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract on lines 2, 3, 5, 8, 11 and 12 contain the word "may", which is not a proper narrative positive expression. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The word "may" should be deleted from the abstract.

Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 20-27 are objected to because of the following informalities:

Claim 20, on line 13, "the display acknowledgment" should be "a display acknowledgment", because the limitation lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international

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application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 11-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Tomcik et al. (US 6567388) FILED: March 5, 1999.

Regarding Claim 20-22, 27, Tomcik discloses a system for retransmitting data frames in a communication system, such as code division multiple access (CDMA), as illustrated in FIG. 1, comprising:

A content provider connected to a first computer network, such as internet 20, for transmitting content requested by a user station (mobile unit 10) connected to a second network such as a wireless communication link (base station 12).

A gateway device, which includes mobile switching center (MSC) 16 and a base station controller (BSC) 14, is connected to the first network internet 20 via MSC 16, and is also connected to the second network base station 12 via BSC 14. The gateway device transmits the requested content (frames) to the mobile unit (10) and also transmits an "acknowledgment" operative in response to an acknowledgment from the mobile unit (10) that there is no error, so as to enable the mobile unit (10) to utilize the free error content.

When a frame, which is transmitted from the gateway device, is received in error by the (mobile unit 10), a number of negative-acknowledgement messages (NAKs) are sent from the (mobile unit 10) to the gateway device. In an IS-707 compliant data communication system, when a frame is received

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having one or more errors contained in the frame, a negative-acknowledgement message, or NAK, is transmitted to the transmitter (gateway device) informing the transmitter of a frame which was received in error. A frame received in error is also known as a bad frame or a frame that was never received by the intended receiver (mobile unit 10). In accordance with the teachings of IS-707, if the same frame is not successfully received within a predetermined amount of time after sending the initial NAK, a second request is sent to the transmitter in the form of two NAKs, each NAK specifying that the same frame be re-transmitted, one retransmission for each NAK sent, (Col. 6, lines 18-40). Conversely, if the (mobile unit 10) receives frames free of error, then an acknowledgement message, or ACK, is transmitted to the transmitter (gateway device) informing the transmitter of a good frame.

Network Internet 20, which can include a billing system for billing a user (mobile unit 10) in response to a display acknowledgment message that the frame information from the gateway device is error free.

Regarding Claim 23-26, Tomcik discloses a first network internet 20, which is a computer wired network interfacing with the MSC 16 coupled to a conventional public switch telephone network (PSTN) 18 or directly to a computer network, such as internet 20, so that the first network is more reliable than the second network, which is wireless communication (base station 12). The user station comprises a mobile device such as (mobile unit 10).

Regarding Claims 1, 2, 7-9, 11-13, 18, 19 and 28-31, Tomcik discloses a method for use with the system for retransmitting data frames in a

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communication system, such as code division multiple access (CDMA), as illustrated in FIG. 1, comprising the method (FIG. 6) steps of:

Requesting content using (mobile unit 10) from a gateway device, which includes mobile switching center (MSC) 16 and a base station controller (BSC) 14, over a communication link, step 610, where BTS 12 begins the transmission of data frame 70.

Receiving using (mobile unit 10) the requested content (frames) from a gateway device, step 620.

Using (mobile unit 10) for sending a first acknowledgment acknowledging receipt (ACK) of the content, step 630.

Receiving a second acknowledgement, step 640.

Enabling utilization of the received content in response to receiving the second acknowledgement, step 660.

Using the gateway device for transmitting the requested content (frames) to the mobile unit (10) and also for transmitting an "acknowledgment" operative in response to an acknowledgment from the mobile unit (10) that there is no error, so as to enable the mobile unit (10) to utilize the free error content. Also see more detailed description for the error in the Office Action as applied to claim 1 above.

Using network Internet 20, which can include a billing system for billing a user (mobile unit 10) in response to a display acknowledgment message that the frame information from the gateway device is error free.

Transmitting a frame from the gateway device in error, then a number of negative-acknowledgement messages (NAKs) are sent from the (mobile unit 10) to the gateway device. In an IS-707 compliant data communication system, when a frame is received having one or more errors contained in the frame, a negative-acknowledgement message, or NAK, is transmitted to the transmitter (gateway device) informing the transmitter of a frame which was received in error. A frame received in error is also known as a bad frame or a frame that was never received by the intended receiver (mobile unit 10). In accordance with the teachings of IS-707, if the same frame is not successfully received within a predetermined amount of time after sending the initial NAK, a second request is sent to the transmitter in the form of two NAKs, each NAK specifying that the same frame be re-transmitted, one retransmission for each NAK sent, (Col. 6, lines 18-40). Conversely, if the (mobile unit 10) receives frames free of error, then an acknowledgement message, or ACK, is transmitted to the transmitter (gateway device) informing the transmitter of a good frame.

Regarding Claim 3, Tomcik discloses wireless communication link between (base station 12) and (mobile unit 10).

Regarding Claims 4 and 5, Tomcik discloses data frame (70, FIG. 3) containing audio and text data information and outputting and displaying the information on a display indicator inherent to a (mobile unit 10), which is typically a wireless telephone, although wireless communication device 10 could also comprise a computer with a display equipped with a wireless modem or any

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other device capable of transmitting and receiving audio or data information to another wireless communication device.

Regarding Claim 6, Tomcik discloses data frame (70, FIG. 3) containing text data information, which is a program and running such a program by displaying the information on a display indicator inherent to a (mobile unit 10).

Regarding Claims 13-17, Tomcik discloses receiving the request from (mobile unit 10) over a first communication wireless link (base station 12), and forwarding the request over a second communication link, such as internet 20, wherein the second communication wired link (internet 20) is more reliable than the first communication link (base station 12), which is a computer wired network interfacing with the MSC 16 coupled to a conventional public switch telephone network (PSTN) 18 or directly to a computer network, such as internet 20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Claims 1-9, 11-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Tomcik et al. (US 6567388).

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Regarding Claim 10, Tomcik does not explicitly disclose encrypted content, wherein receiving the second acknowledgment comprising a decryption key. However, it is well known in the art to send encrypted content information over Internet secured webs with user ID and PIN codes, and then make the information available to the user through an acknowledgment command, after proper verification of the user ID and the OIN code. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use well-known user ID and PIN codes for retransmitting secured content over the communication network of Tomcik, prior to utilization of the information by the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C Kerveros whose telephone number is (703) 305-1081. The examiner can normally be reached on 9:00 AM TO 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (703) 305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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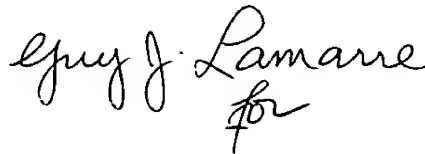
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

U.S. PATENT OFFICE
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Date: 12 April 2004
Office Action: Non-Final Rejection

By: 

James C Kerveros
Examiner
Art Unit 2133



Albert DeCady
Primary Examiner